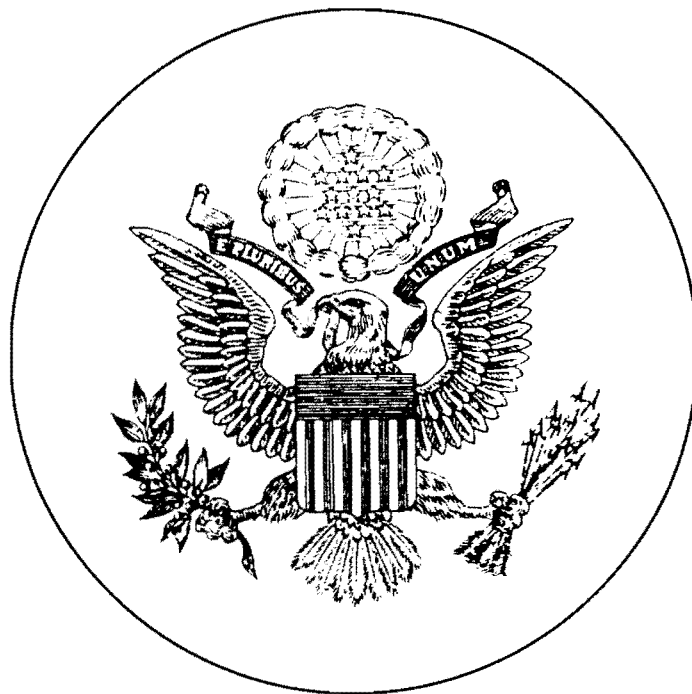


ANNUAL EVALUATION REPORT
CIVIL JUSTICE REFORM ACT
ADVISORY COMMITTEE
DISTRICT OF IDAHO



MAY 1994



Overview

The Civil Justice Reform Act of 1990¹ requires courts that have adopted expense and delay reduction plans, in consultation with the advisory groups, to annually assess the court's civil and criminal docket to determine appropriate additional actions that may be taken to reduce cost and delay in civil litigation and to improve the litigation management practices of the court.

Although the statute provides no further guidance on this subject, the underlying goals of the Act would suggest that the advantages to be derived from such periodic evaluation are threefold: (1) to inform the court of the impact of the CJRA plan so it can make adjustments and revisions as necessary; (2) to provide information to other courts and advisory groups who would benefit from such analysis; and (3) to be used by the Judicial Conference in reporting to Congress.

Suggestions for improvement are welcome.

Edward J. Lodge
Chief District Judge

¹ 28 USC § 471-482

**CIVIL JUSTICE REFORM ACT ADVISORY COMMITTEE
DISTRICT OF IDAHO**

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Chief Magistrate Judge Mikel H. Williams

Betty H. Richardson, U.S. Attorney

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Richard C. Fields, Esq.

Trudy Hanson Fouser, Esq.

William R. Hollifield, Esq.

Guy G. Hurlbutt, Esq.

John T. Lezamiz, Esq.

Craig L. Meadows, Esq.

Celeste K. Miller, Esq.

Patrick E. Miller, Esq.

William D. Olson, Esq.

N. Randy Smith, Esq.

Perry Swisher

Staff

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Jerry L. Clapp, Reporter

Thomas V. Murawski

ANNUAL EVALUATION REPORT

CIVIL JUSTICE REFORM ACT ADVISORY COMMITTEE

DISTRICT OF IDAHO

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I. Evaluation Methodology

The CJRA Advisory Committee adopted an evaluation methodology to be used in connection with the annual assessment. Generally, this involved an assessment of the timeliness of litigation, the Bar's assessment of CJRA reform, and a comparison of case processing measures before and after the implementation of the CJRA. These guidelines, which are contained in the appendix, were followed except in instances where extenuating circumstances rendered this infeasible such as the lack of critical information in the data base or the impossibility of extracting it in a useful manner.

From the outset of the CJRA endeavor, the cost and fairness aspect of civil litigation to the party litigant has proven the most difficult to quantify, measure, assess, analyze or evaluate. It is a presumption in almost every context, including federal civil litigation, that time equals money. Therefore, if the overall time factor or individual time increments can be reduced without sacrificing intangibles such as the quality of justice or fairness, there will be some corresponding monetary savings, whether it be to the party litigants, the attorneys, the court or all three groups in varying degrees.

The nature of the traditional adversary system of retained counsel in civil litigation dictates that the amount of exposure which party litigants actually receive to the court process and its corresponding rules, policies and procedures is minimal. Furthermore, because a litigant's perceptions and opinions are, to a large extent, outcome determinative, it is virtually impossible to compile any meaningful input or come to any conclusions with respect to the cost and fairness factor.

II. Motions

Initially, it was the general perception of the CJRA Advisory Committee, as well the bar, the judges and court staff, that pending motions in civil matters was an area which warranted in-depth research, analysis and perhaps the implementation of certain reform measures. Although everyone realized that a variable such as the number of motions filed in civil cases cannot be regulated, factors such as adherence to briefing deadlines, motion disposition time goals, motion hearing scheduling and time extension requests relating to motions are components which are within the realm of control of the court and are subject to monitoring and measurement.

Through a combination of an increased awareness and sensitivity to problems associated with motion practice, improved automated case management reports, and the modification and revision of local rules and internal court policy and procedures, significant improvements in motion practice have been realized, as reflected below.

MOTIONS PENDING OVER SIX MONTHS								
9/30/91	%	3/31/92	%	9/30/92	%	3/31/93	%	9/30/93
126	-14%	108	-70%	32	-41%	19	-11%	17

A summary in table format of the information submitted semi-annually to the Administrative Office of the U.S. Courts shows that over the course of the last two years, this Court has been able to reduce its motions pending over six months by an incredible 87%!

Likewise, a compilation of data with respect to median disposition times for various types of motions, (see appendix page 13 and 14) demonstrates that between 1992 and 1993: the median disposition time for summary judgment motions decreased by 64 days; the median disposition time for all dispositive motions declined by 14 days, despite the fact that 93 more dispositive motions were processed; and that the median disposition time for all motions, regardless of type, increased by only 7 days despite the fact that 316 more motions were disposed of in 1993 than in 1992.

Judging by the improvements reflected in the 1993 motion disposition time statistics, if the maximum briefing and mailing time frames allowed under current local rules are deducted and a sufficient amount of time necessary for court review is factored in for summary judgment and other dispositive motions, the District of Idaho is coming close to achieving the motion disposition time goals it had set in the Expense and Delay Reduction Plan adopted in December 1991 and is committed to further improvement in this area.

III. Civil Cases Over Three Years Old

As reflected in the table below, over the past two calendar years, the court has been able to decrease the amount of its civil cases over three years old by 49%.

CASES OVER THREE YEARS OLD								
9/30/91	%	3/31/92	%	9/30/92	%	3/31/93	%	9/30/93
53	-4%	51	-8%	47	-32%	32	-16%	27

Although many of the remaining older cases can be categorized as complex matters dependent upon the resolution of appeals, the outcome of other cases pending in the U.S. Supreme Court or other jurisdictions or the completion of administrative hearings, the court has employed a variety of improved case management techniques and automated

reports in an attempt to address this problem. The compilation of statistical data with respect to the termination of civil cases by nature of suit containing the number of those type of cases terminated, the average disposition time, and the method of disposition has provided insight as to which type of civil cases historically in this district have taken the longest time to resolve.

Furthermore, the more systematic conducting of settlement conferences by the magistrate judges in pending civil cases which the court deems appropriate, has resulted in a success ratio of approximately 60%. In those cases where settlement has not been immediately achieved, the parties admittedly have derived the benefit of focusing upon and narrowing the disputed issues for upcoming trial.

IV. CJRA Expense & Delay Reduction Plan Evaluation Questionnaire

In an attempt to elicit meaningful feedback with respect to the impact of the CJRA reforms adopted by this Court, a comprehensive evaluation questionnaire (see appendix page 16) was sent to counsel of record in all civil cases filed on or after March 1, 1992. This was the date when most of the CJRA remedial measures codified in the revised Local Rules became effective. Full questionnaire results appear in the appendix.

A. Response Rate

Of the 933 evaluation questionnaires sent out, the court received 131 responses, which translates to approximately a 14% response rate. Many other recipients of the survey communicated that they could not opine for a variety of reasons, including that they were out-of-state counsel; that the case was dismissed, settled, remanded to state court at a relatively early stage in the proceedings; or that they lacked sufficient past experience in federal civil litigation necessary to draw valid comparisons. Nevertheless, there is a caveat to whatever conclusions can be drawn from this questionnaire in light of the low response rate.

V. Questionnaire Results

A. Scheduling Conference/Litigation Plan (Local Rule 16.1(a))

The vast majority of respondents (73%) felt this constituted an improvement, while only a small fraction (5%) thought it had a negative effect. The remainder felt it had no impact. Likewise, the vast majority (76%) believed that this reform measure helped reduce delay, but were much more closely divided as to whether it helped reduce cost.

B. Initial Disclosures (Local Rule 26.2)

Of those attorneys who responded, 54% believed this somewhat controversial local rule was an improvement, while 26% believed it had no impact. The other 21% felt it had a negative effect. The majority of respondents believed that this reform measure did help to reduce delay but not cost.

C. Disclosure of Expert Testimony (Local Rule 26.3)

The majority (52%) felt that this rule was an improvement while 32% believed that it had no impact. The remainder (16%) thought it had a negative effect. Once again, the majority (64%) believed this rule reduced delay, whereas there was an almost even split as to whether it had any impact upon cost.

D. Limits on Interrogatories (Local Rule 33.1)

The majority (49%) felt that this was an improvement, while only 18% believed that it had a negative effect. The remaining 34% of the respondents believed it had no impact. A small majority felt this reform measure did not help to reduce delay, and there was almost an even split (51% to 49%) as to whether this rule helped to reduce cost.

E. Settlement Conferences Conducted by Magistrate Judges (Local Rule 68.1)

An overwhelming majority (85%) believed this reform measure was an improvement. Not one person (0%) felt that this had a negative effect. Only 15% felt it had no impact. Likewise, 85% felt that this reform measure helped reduce delay and 87% believed it helped to reduce costs.

F. Requests for Time Extensions concerning Motions (Local Rule 7.3(a))

A slight majority (51%) believed that this reform measure had no impact, whereas 37% felt it was an improvement. The remaining 12% thought it had a negative effect. There was an almost even split as to whether it helped reduce delay, but 56% felt that it did not reduce cost.

G. Motion Scheduling (Local Rule 7.1(b))

Most of the respondents (64%) believed this reform measure was an improvement. Only 7% thought it had a negative effect whereas the remaining 28% felt that it had no impact. Over two-thirds (69%) felt this reform measure helped to reduce delay, and 59% thought it reduced cost.

H. Motion Disposition Time

When asked their perception of whether civil motions, regardless of type, were being more promptly decided under the CJRA Expense and Delay Reduction Plan, 35% of the respondents believed they were whereas only 21% felt they were not. Furthermore, 24% concluded that the disposition time was about the same and a full 20% had no opinion.

As to their beliefs with respect to the motion disposition time for dispositive motions, 30% felt that it was about the same under the plan, 25% felt that dispositive motions were being decided more promptly, 24% felt the opposite, and a full 21% had no opinion.

I. Trial Dates and Requests for Trial Continuances (Local Rule 7.3(b))

The percentage of respondents who felt that trial dates were *scheduled* earlier as a result of the CJRA reforms totaled 32%, whereas 21% felt that it was about the same. Those without an opinion totalled 28%. When asked their perception as to whether trials actually *occurred* any earlier, 30% responded no, only 11% responded yes, 24% believed it was about the same, and 36% had no opinion.

With respect to the revised local rule on requests for trial continuances, 43% believed that it constituted an improvement while only 5% felt it had a negative effect. The majority (53%) could not see any impact. Furthermore, 58% believed that this reform measure was helping to reduce delay and 52% thought that it was helping to reduce cost.

J. Stipulations (Local Rule 7.4)

The opinion was evenly divided (47% to 46%) as to whether this reform measure was an improvement or had no impact. However, only 7% considered it a negative. The majority (58%) believed it was helping to reduce delay, but there was an almost even split (51% to 49%) as to whether it helped reduce cost.

K. Overall Impressions of Federal Bar re: CJRA Reform Measures on Delay and Cost

When asked if the various CJRA reform measures implemented by the District of Idaho have collectively resulted in any discernable reduction in delay, 46% felt it was too early to make such a determination, 24% believed that there has been some overall

reduction in delay, whereas 19% could make no such connection. The remaining 11% had no opinion.

As to whether the CJRA reforms have collectively contributed to any reduction in the cost of civil litigation, 41% believed that it was too early to make such a determination, 31% felt that there was no perceived reduction in cost, whereas 21% thought the opposite. The remainder (9%) had no opinion.

L. Alternative Dispute Resolution (ADR) Programs

In an effort to obtain input with respect to the formulation of future alternative dispute resolution programs in this district, as well as acquire feedback concerning the federal bar's apparent reluctance to use the presently existing arbitration program, attorneys were questioned concerning their familiarity with and past use of various ADR programs, as well as the likelihood of ADR being used in future federal civil litigation.

When asked which ADR programs the respondents had actually used or had exposure to in their civil practice, including state court cases whether in Idaho or elsewhere (more than one answer could be selected), 65% listed mediation, 55% listed settlement conferences conducted by a neutral judge, 47% listed arbitration, 47% listed settlement week using neutral attorneys/settlement masters, 8% listed early neutral evaluation, and only 13% had never had any prior experience with any type of ADR. (Since multiple answers were possible, the total exceeds 100%.)

When asked which alternative dispute resolution programs they would most likely use in federal civil litigation (more than one answer could be selected), 61% picked a settlement conference conducted by a neutral judge, 48% chose mediation, 29% listed early neutral evaluation, 19% designated settlement week using neutral attorneys/settlement masters, and only 8% selected arbitration. Furthermore, only 2 stated that they would not use *any* type of ADR in future federal litigation.

VI. **Commentary**

To more fully appreciate some of the apparent success which the court was able to achieve in connection with the CJRA effort, it is necessary to go behind the statistics and understand some of the circumstances which have an impact upon the District of Idaho.

Regardless of whether the CJRA reform measures adopted and implemented by this court have produced immediate, tangible results capable of being quantified in tables, graphs or charts, there is a collective feeling among those who participated in this effort

that undergoing the process alone has been a worthwhile endeavor and has resulted in a greater awareness, understanding and appreciation for the myriad of interrelated elements which comprise this complex legal system. Furthermore, it has resulted in breaking down barriers and increased communication between chambers, court personnel, the bar and party litigants.

A. Judicial Resources

The District of Idaho has two authorized Article III district judgeships, one of which has remained vacant since December 1992. Neither of the two senior judges currently hears criminal matters. In the District of Idaho, court is regularly held at three divisional offices geographically spread throughout the state and located 450 miles, 365 miles and 150 miles respectively from Boise, where all the judges, including two full time magistrate judges, are located.

During 1993, a high profile, nationally reported criminal trial consumed over four months of time for our only Article III district judge. Because of the above circumstances, the district had to rely on the services of approximately 10 to 12 visiting judges during the past year.

B. Effects of Sentencing Guidelines

In addition, since the Sentencing Guidelines took effect on November 1, 1987, although criminal filings have decreased by 38%, the number of criminal trials has increased by 77%, the number of judge hours in criminal trials has increased by 533%, and the number of days in criminal trials has increased by 408%.

C. Pro Se Litigation

Pro Se litigation accounted for 31% of all civil filings during 1993 and currently comprises 24% of all pending civil cases (see appendix page 27) Of those pro se cases filed during 1993, approximately 65% involved prisoner petitions. Studies have demonstrated that pro se litigation usually consumes an inordinate amount of judicial resources and is more intensive with respect to involvement of Clerk's Office staff.

Although we are attempting to implement certain measures which might beneficially impact upon pro se litigation, we believe that the percentage of overall civil filings in a particular district would constitute a more equitable criteria for qualifying for a pro se law clerk instead of the current policy dictated by a set number of pro se filings irrespective of the relation to overall percentage.

D. Case Management Workshop

In addition to the numerous caseflow management measures which were implemented by the District of Idaho in connection with the adoption of the CJRA Expense and Delay Reduction Plan, Maureen Solomon, one of the foremost authorities in this field, conducted a workshop for the judges, magistrate judges, courtroom deputies, docket clerks, and other interested court staff members. It was a very worthwhile, interactive, and informative session that demonstrated the interrelation and cause and effect aspects of court procedures, as well as the importance of communication and consistency.

For approximately the past year, the District of Idaho has been involved in a comprehensive, long-range, strategic planning process. An entire section has been devoted to the issue of case management, replete with goals, objectives and implementation strategies. An excerpt from the caseflow management section of the strategic plan, entitled "Prescription for Excellence" has been included in the appendix at page 28.

E. Status of CJRA Projects

In addition to the previously mentioned remedial measures which were directly or indirectly implemented in connection with the CJRA effort, the Expense and Delay Reduction Plan identified a number of projects for implementation in the immediate future with the realization that it would be somewhat dependent upon the sufficiency of funds, resources and time, as well as subject to other extenuating circumstances. The following briefly recounts some of those projects. A status report in table format is contained in the appendix at page 35.

(1) Pro Se Projects - The initial draft of a comprehensive Pro Se Handbook has been completed and is being circulated for comments and revision. A proposed "settlement week" for pending prisoner pro se civil cases is still in the planning stages. The creation of a videotape for non-prisoner pro se litigants has been deferred until funding can be obtained.

(2) Federal Court Continuing Legal Education (CLE) Programs - The federal court has conducted approximately 10 educational programs in various locations throughout the state during the past year. A concerted effort has been made, when possible, to involve the state bar and the state court in areas of mutual concern and importance such as alternative dispute resolution programs, strategic long range planning, gender bias, civility and numerous other items. A bar manual reflecting the differences between federal and state local rules will be produced sometime prior to the end of this year.

The federal court has also hosted meetings with Idaho's United States Senators and Representatives to inform them of issues and circumstances relevant to the federal courts. In addition, the federal judges and state supreme court judges periodically meet to discuss items of mutual importance and concern.

(3) Automated Notices, Reports and Monitoring - The use of automation in connection with the monitoring and enforcement of next action dates has largely been implemented. This includes the various items contained on the scheduling conference litigation plan, as well as service and answer deadlines, motion briefing deadlines, discovery deadlines, and inactivity or failure to prosecute limitations.

Likewise, numerous automated reports have been created or modified to assist the court in its caseload management efforts and in its need to generate statistical data to better analyze and evaluate the state of its docket and work load, as well as other impacting factors. A methodology is currently being studied to help understand and improve the problem and related implications associated with continuances.

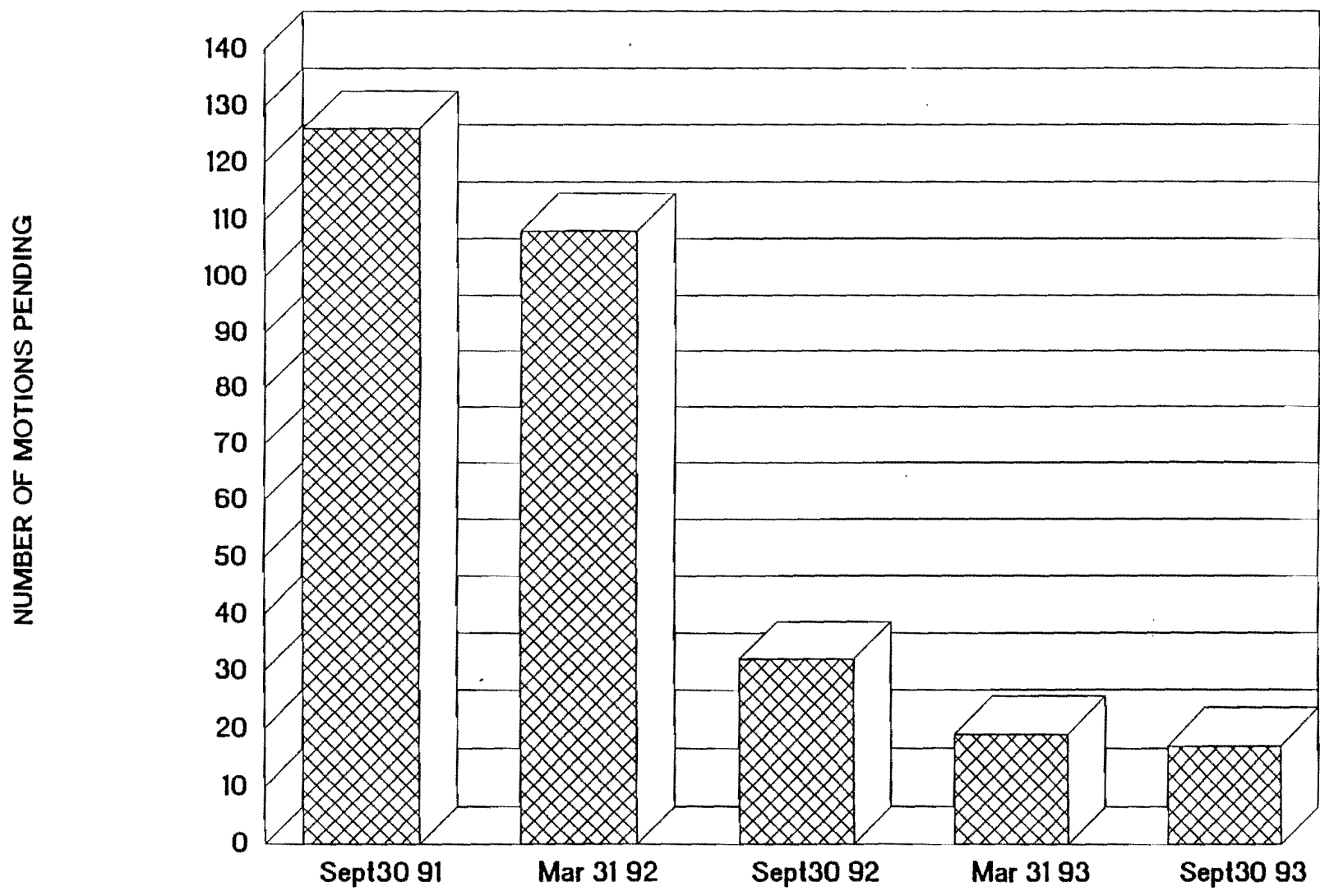
VI. Appendix

CJRA ANNUAL ASSESSMENT EVALUATION CRITERIA / METHODOLOGY

- A. Determine what information will be needed to evaluate whether plan has been effective;
- B. Procedures for collecting and analyzing this information.
- C. Assess changes in civil and criminal dockets
- D. Comparison with pre-CJRA data and procedures
- E. Assess timeliness of litigation
 - ◆ time to disposition
 - ◆ interval measurement for each type of case
- F. Assess cost of litigation
 - ◆ monetary and non-monetary outcomes that occur
 - ◆ cost to litigants to pursue case
 - ◆ cost to the court
- G. Assess fairness and satisfaction
 - ◆ do litigants and attorneys think outcome and/or process of resolving case was fair
 - ◆ appeal rate
 - ◆ are the judges satisfied with court processes, costs and outcomes
- H. Determine impact of case processing and disposition methods
 - ◆ level of judicial involvement
 - ◆ types and number of motions filed
 - ◆ was ADR used (including judicially conducted settlement conferences)
 - ◆ was case disposed of by trial or some other method
- I. Identify and examine impact of case characteristics such as
 - ◆ type of case
 - ◆ number and type of issues
 - ◆ number and type of parties
 - ◆ number of attorneys
 - ◆ stakes involved
- J. Identify and examine impact of other variables
 - ◆ number of judges, senior judges and magistrate judges
 - ◆ criminal docket
 - ◆ prisoner pro se docket
 - ◆ level of implementation of CJRA reforms
- K. Create table identifying status of CJRA projects and timetable for implementation

CIVIL MOTIONS PENDING OVER 6 MONTHS

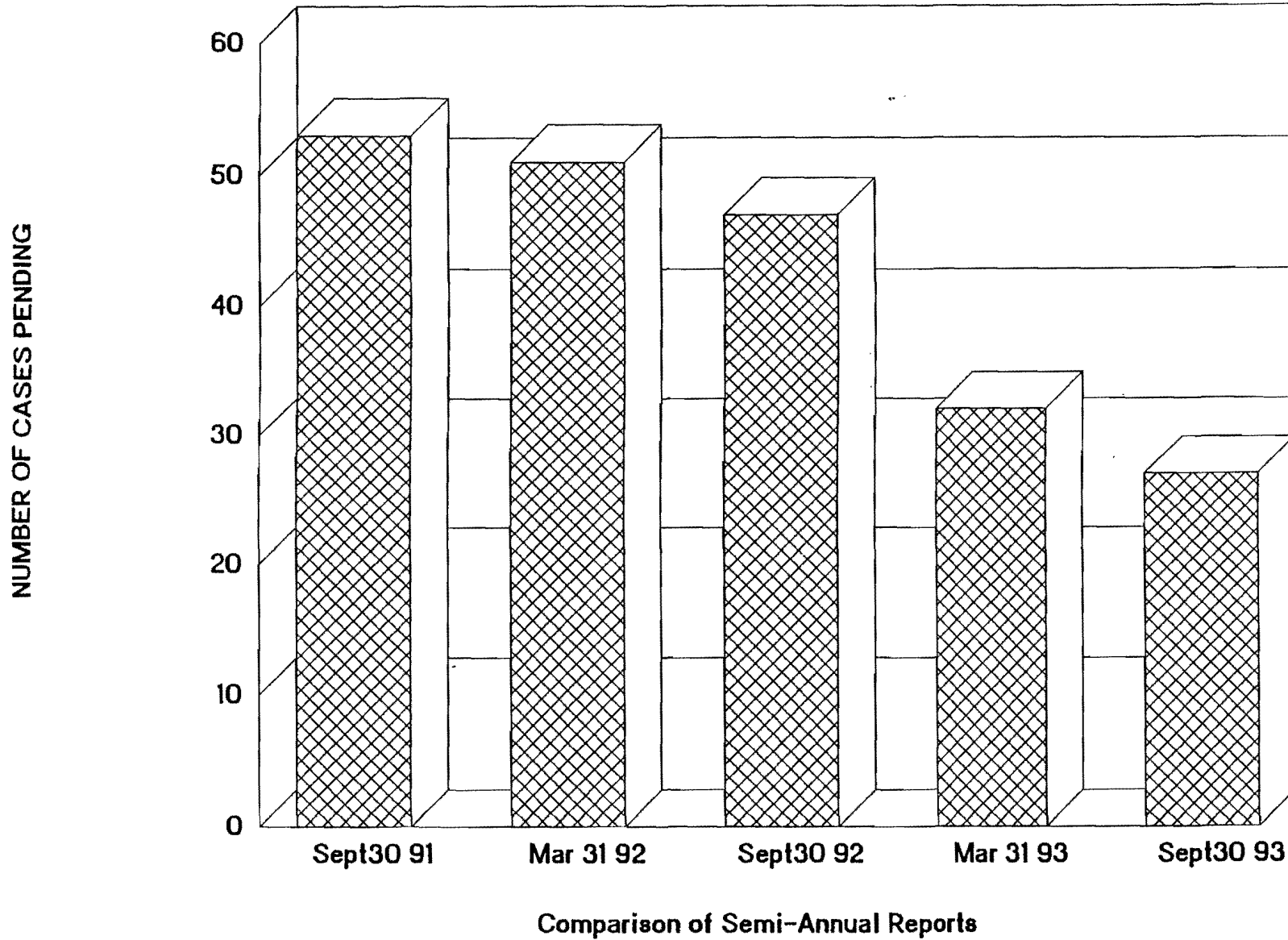
U.S. District Court



Comparison of Semi-Annual Reports

CIVIL CASES PENDING MORE THAN 3 YEARS

U.S. District Court



MOTION DISPOSITION Number of Motions Disposed of during 1992		
Summary Judgment	Dispositive Motions	All Motions
293	696	2906

MOTION DISPOSITION TIME (median days from filing to disposition)			
	Summary Judgment	Dispositive Motions	All Motions
January 1992	190	122	55
February 1992	176	81	43
March 1992	181	158	73
April 1992	160	84	40
May 1992	84	80	49
June 1992	81	70	38
July 1992	240	112	58
August 1992	232	141	97
September 1992	258	167	98
October 1992	87	46	21
November 1992	139	91	40
December 1992	177	123	40

1992 MOTION DISPOSITION TIME (days from filing to disposition)			
	Summary Judgment	Dispositive Motions	All Motions
Median	177	102	46
Average	167	106	54

MOTION DISPOSITION Number of Motions Disposed of during 1993		
Summary Judgment	Dispositive Motions	All Motions
287	789	3222

MOTION DISPOSITION TIME (median days from filing to disposition)			
	Summary Judgment	Dispositive Motions	All Motions
January 1993	163	136	52
February 1993	122	121	51
March 1993	196	163	105
April 1993	80	45	29
May 1993	138	57	53
June 1993	88	61	39
July 1993	103	83	53
August 1993	103	56	37
September 1993	192	105	65
October 1993	97	71	49
November 1993	76	101	55
December 1993	152	92	55

1993 MOTION DISPOSITION TIME (days from filing to disposition)			
	Summary Judgment	Dispositive Motions	All Motions
Median	113	88	53
Average	126	91	54

CIVIL CASE DISPOSITION GOAL REPORT		
For Civil Cases Filed During	Goal Date (18 months later)	Percent of Civil Cases Disposed of by Goal Date
June 1990	December 31, 1991	73%
July 1990	January 31, 1992	84%
August 1990	February 29, 1992	72%
September 1990	March 31, 1992	70%
October 1990	April 30, 1992	70%
November 1990	May 31, 1992	66%
December 1990	June 30, 1992	93%
January 1991	July 31, 1992	85%
February 1991	August 31, 1992	74%
March 1991	September 30, 1992	71%
April 1991	October 31, 1992	87%
May 1991	November 30, 1992	84%
June 1991	December 31, 1992	39%
July 1991	January 31, 1993	66%
August 1991	February 28, 1993	79%
September 1991	March 31, 1993	78%
October 1991	April 30, 1993	82%
November 1991	May 31, 1993	70%
December 1991	June 30, 1993	57%
January 1992	July 31, 1993	81%
February 1992	August 31, 1993	82%
* March 1992	September 30, 1993	85%
* April 1992	October 31, 1993	72%
* May 1992	November 30, 1993	74%
* June 1992	December 31, 1993	76%

Court Goal: For civil cases filed after March 1, 1992, dispose of 95% within 18 months.

Before 3/1/92: Average (mean): 74%

Median: 74%

* After 3/3/92: Average (mean): 77%

Median: 75%

CJRA Expense & Delay Reduction Plan Evaluation Questionnaire
REVISED RESULTS

933 = sent out to counsel of record in all civil cases filed on or after 3/1/92
131 = responses received (14%)
23 = could not opine for various reasons
7 = unable to deliver, returned to sender

1. Scheduling Conference/Litigation Plan (see local rule 16.1(a))

- improvement 94/128 = 73%
- negative effect 7/128 = 5%
- no impact 27/128 = 21%

1.(a) Is this reform measure helping to reduce delay?

- yes 83/109 = 76%
- no 26/109 = 24%

Is this reform measure helping to reduce cost?

- yes 62/110 = 56%
- no 48/110 = 44%

1.(b) If you feel this reform measure is not helping, is it because:

- Opposing counsel do not cooperate. 7/74 = 9%
- These provisions are not familiar to the attorneys and hence are not used.
12/74 = 16%
- Failure on the part of the Court to apply these provisions. 6/74 = 8%
- Other 15/74 = 20%

2. Initial Disclosures (see local rule 26.2)

- improvement 67/125 = 54%
- negative effect 26/125 = 21%
- no impact 32/125 = 26%

2.(a) Is this reform measure helping to reduce delay?

- yes 68/115 = 59%
- no 47/115 = 41%

Is this reform measure helping to reduce cost?

- yes 49/109 = 45%
- no 60/109 = 55%

2.(b) If you feel this reform measure is not helping, is it because:

- Opposing counsel do not cooperate. 13/107 = 12%
- These provisions are not familiar to the attorneys and hence are not used.
14/107 = 13%
- Failure on the part of the Court to apply these provisions. 1/107 = 1%
- Other 34/107 = 32%

3. Disclosure of Expert Testimony (see local rule 26.3)

- improvement 60/116 = 52%
- negative effect 19/116 = 16%
- no impact 37/116 = 32%

3.(a) Is this reform measure helping to reduce delay?

- yes 60/94 = 64%
- no 34/94 = 36%

Is this reform measure helping to reduce cost?

- yes 47/90 = 52%
- no 43/90 = 48%

3.(b) If you feel this reform measure is not helping, is it because:

- Opposing counsel do not cooperate. 7/77 = 9%
- These provisions are not familiar to the attorneys and hence are not used.
3/77 = 4%
- Failure on the part of the Court to apply these provisions. 2/77 = 3%
- Other 24/77 = 31%

4. Limits on Interrogatories (see local rule 33.1)

- improvement 61/125 = 49%
- negative effect 22/125 = 18%
- no impact 42/125 = 34%

4.(a) Is this reform measure helping to reduce delay?

- yes 48/110 = 44%
- no 62/110 = 56%

Is this reform measure helping to reduce cost?

- yes 55/107 = 51%
- no 52/107 = 49%

4.(b) If you feel this reform measure is not helping, is it because:

- Opposing counsel do not cooperate. 6/114 = 5%
- These provisions are not familiar to the attorneys and hence are not used. 2/114 = 2%
- Failure on the part of the Court to apply these provisions. 1/114 = 1%
- Other 27/114 = 21%

5. Settlement Conferences Conducted by Magistrate Judge (see local rule 68.1)

- improvement 89/105 = 85%
- negative effect 0/105 = 0%
- no impact 16/105 = 15%

5.(a) Is this reform measure helping to reduce delay?

- yes 82/96 = 85%
- no 14/96 = 15%

Is this reform measure helping to reduce cost?

- yes 78/90 = 87%
- no 12/90 = 13%

5.(b) If you feel this reform measure is not helping, is it because:

- Opposing counsel do not cooperate 1/26 = 4%
- These provisions are not familiar to the attorneys and hence are not used 2/26 = 8%
- Failure on the part of the Court to apply these provisions 0/26 = 0%
- Other 13/26 = 50%

6. Requests for Time Extensions concerning Motions (see local rule 7.3(a))

- improvement 41/112 = 37%
- negative effect 13/112 = 12%
- no impact 58/112 = 52%

6.(a) Is this reform measure helping to reduce delay?

- yes 39/76 = 51%
- no 37/76 = 49%

Is this reform measure helping to reduce cost?

- yes 33/75 = 44%
- no 42/75 = 56%

6.(b) If you feel this reform measure is not helping, is it because:

- Opposing counsel do not cooperate. 1/79 = 1%
- These provisions are not familiar to the attorneys and hence are not used. 3/79 = 4%
- Failure on the part of the Court to apply these provisions. 4/79 = 5%
- Other 22/79 = 28%

7. Motion Scheduling (see local rule 7.1(b))

- improvement 78/121 = 64%
- negative effect 9/121 = 7%
- no impact 34/121 = 28%

7.(a) Is this reform measure helping to reduce delay?

- yes 71/103 = 69%
- no 32/103 = 31%

Is this reform measure helping to reduce cost?

- yes 59/100 = 59%
- no 41/100 = 41%

7.(b) If you feel this reform measure is not helping, is it because:

- Opposing counsel do not cooperate. 1/73 = 1%
- These provisions are not familiar to the attorneys and hence are not used. 3/73 = 4%
- Failure on the part of the Court to apply these provisions. 5/73 = 7%
- Other 13/128 = 10%

8. Motion Disposition Time - Do you feel that civil motions, regardless of type, are being decided more promptly under the plan?

- yes 46/130 = 35%
- no 28/130 = 21%
- about the same 31/130 = 24%
- no opinion 25/130 = 20%

8.(a) Motion Disposition Time - Do you feel that dispositive motions are being decided more promptly under the plan?

- yes 32/128 = 25%
- no 30/128 = 24%
- about the same 39/128 = 30%
- no opinion 27/128 = 21%

9. Trial Dates - Do you feel that trial dates were scheduled any earlier as a result of the CJRA reforms?

- yes 41/129 = 32%
- no 25/129 = 19%
- about the same 27/129 = 21%
- no opinion 36/129 = 28%

9.(a) Trial Dates - Do you feel that trials actually occurred any earlier as a result of the CJRA reforms?

- yes 14/129 = 11%
- no 38/129 = 30%
- about the same 31/129 = 24%
- no opinion 46/129 = 36%

10. Requests for Trial Continuance (see local rule 7.3(b))

- improvement 39/91 = 43%
- negative effect 5/91 = 5%
- no impact 48/91 = 53%

10.(a) Is this reform measure helping to reduce delay?

- yes 42/72 = 58%
- no 30/72 = 42%

Is this reform measure helping to reduce cost?

- yes 35/67 = 52%
- no 32/67 = 48%

10.(b) If you feel this reform measure is not helping, is it because:

- Opposing counsel do not cooperate. 0/62 = 0%
- These provisions are not familiar to the attorneys and hence are not used. 1/62 = 2%
- Failure on the part of the Court to apply these provisions. 0/62 = 0%
- Other 8/62 = 13%

11. Stipulations (see local rule 7.4)

- improvement 48/102 = 47%
- negative effect 7/102 = 7%
- no impact 47/102 = 46%

11.(a) Is this reform measure helping to reduce delay?

- yes 41/71 = 58%
- no 30/71 = 42%

Is this reform measure helping to reduce cost?

- yes 36/70 = 51%
- no 34/70 = 49%

11.(b) If you feel this reform measure is not helping, is it because:

- Opposing counsel do not cooperate. 1/64 = 2%
- These provisions are not familiar to the attorneys and hence are not used. 2/64 = 3%
- Failure on the part of the Court to apply these provisions. 1/64 = 2%
- Other 7/64 = 11%

12. Which Alternative Dispute Resolution (ADR) programs would you be most likely to use in federal civil litigation? *(More than one answer can be selected)*

- arbitration 10/131 = 8%
- mediation 63/131 = 48%
- early neutral evaluation 38/131 = 29%
- settlement conference conducted by neutral judge 80/131 = 61%
- settlement week using neutral attorneys/settlement masters 25/131 = 19%
- none 4/131 = 2%

13. Which ADR programs have you actually used or had exposure to in your civil practice, including state court cases, whether in Idaho or elsewhere?

(More than one answer can be selected)

- arbitration 61/131 = 47%
- mediation 85/131 = 65%
- early neutral evaluation 10/131 = 8%
- settlement conference conducted by neutral judge 72/131 = 55%
- settlement week using neutral attorneys/settlement masters 61/131 = 47%
- none 18/131 = 13%

14. Under the newly proposed Federal Rules of Civil Procedure, which become effective on December 1, 1993, without obtaining leave of the Court, each party will be limited to 10 depositions.

- I agree with this limitation. 48/139 = 35%
- I believe that each party should be limited to _____ depositions. 2/139 = 1%
- I do not believe that there should be an arbitrary limit imposed as to the number of depositions a party can take. 78/139 = 56%
- other 11/139 = 8%

15. Have the CJRA reform measures implemented by the District of Idaho collectively resulted in any discernable reduction in delay in civil litigation?

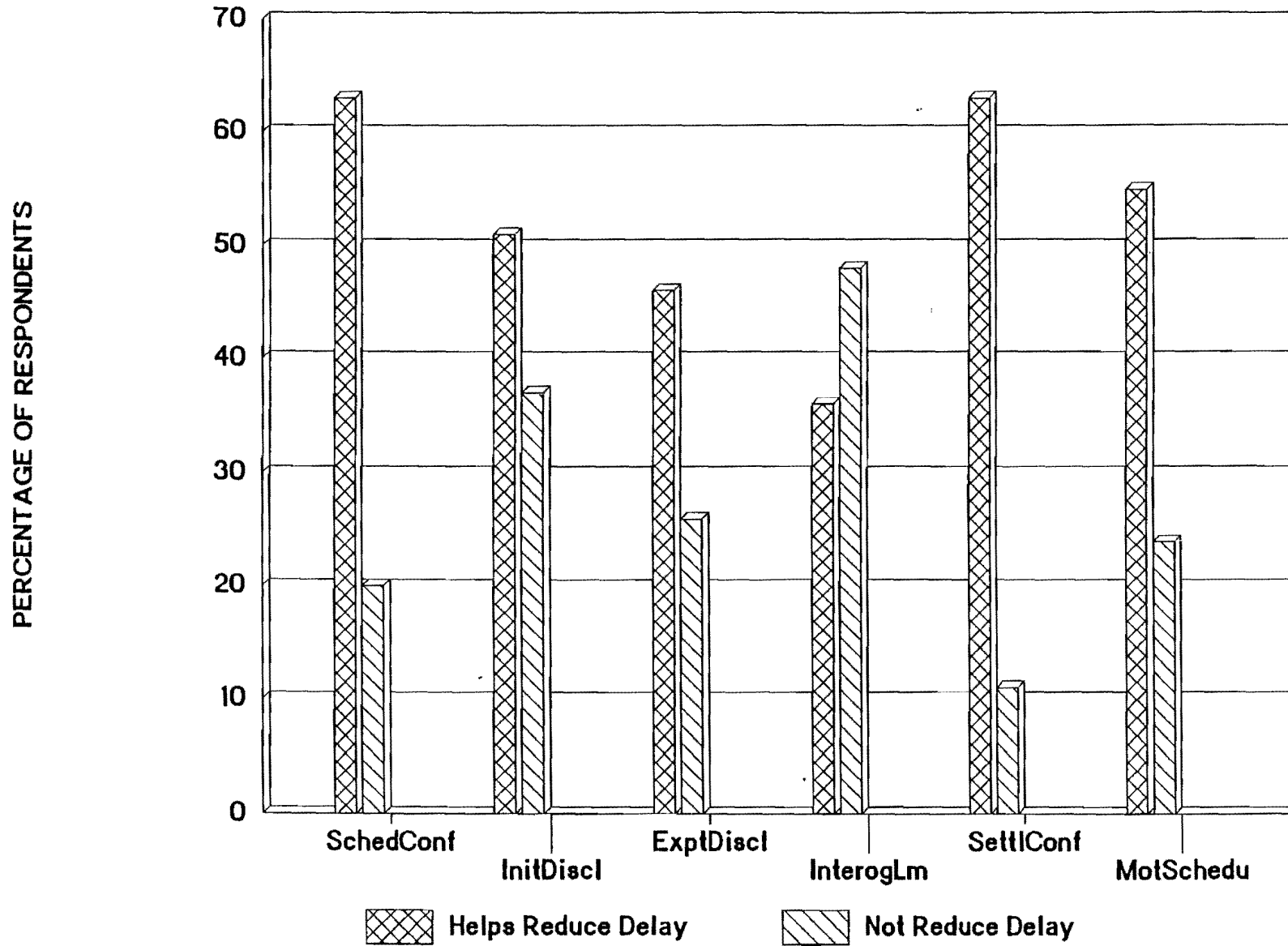
- yes 32/134 = 24%
- no 26/134 = 19%
- too early to make such a determination 61/134 = 46%
- no opinion 15/134 = 11%

16. Have the CJRA reform measures implemented by the District of Idaho collectively resulted in any discernable reduction in the cost of civil litigation for the client?

- yes 28/134 = 21%
- no 41/134 = 31%
- too early to make such a determination 53/134 = 41%
- no opinion 12/134 = 9%

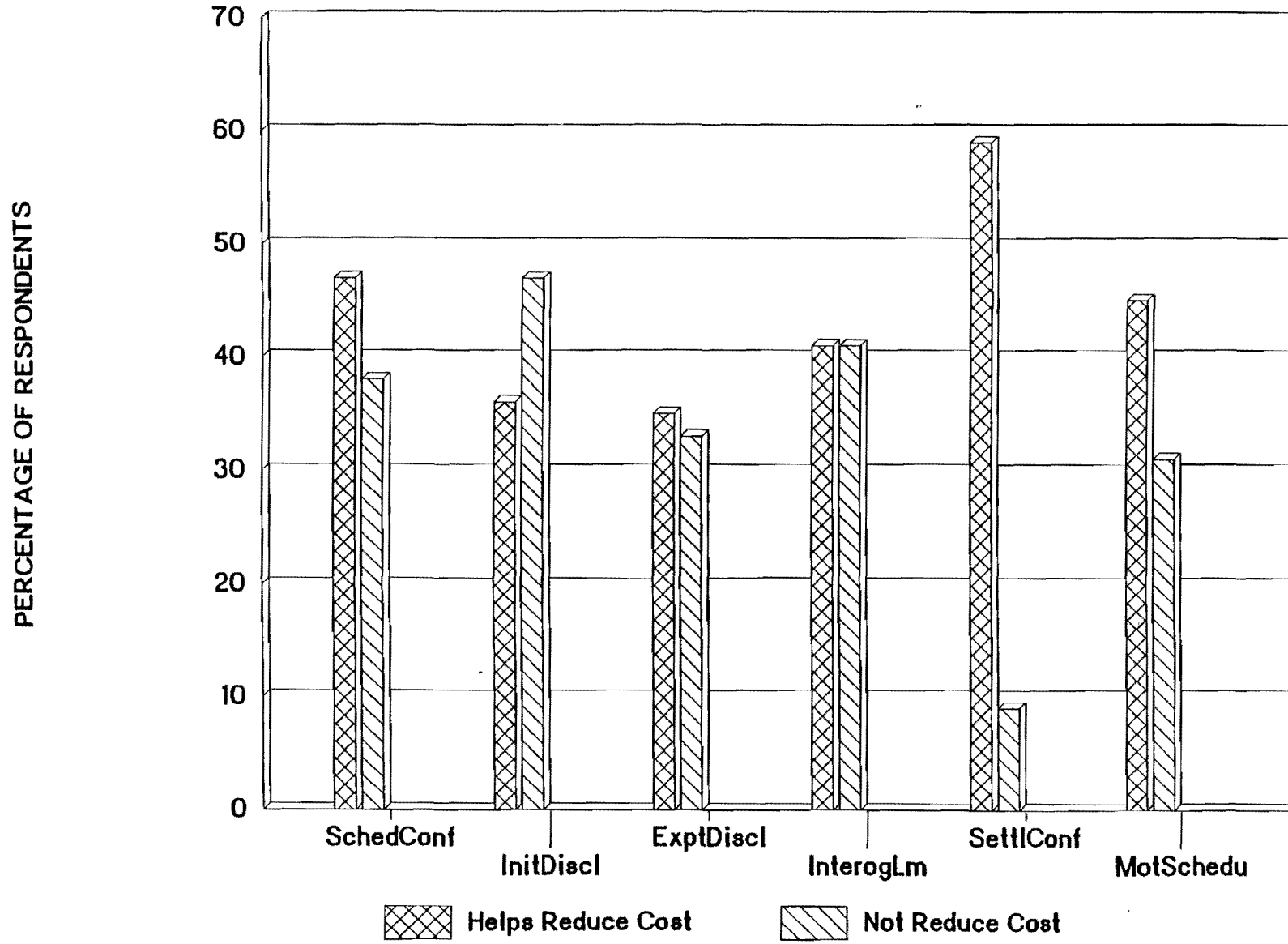
BAR ASSESSMENT OF CJRA-1993

IMPACT OF REFORMS ON REDUCING DELAY



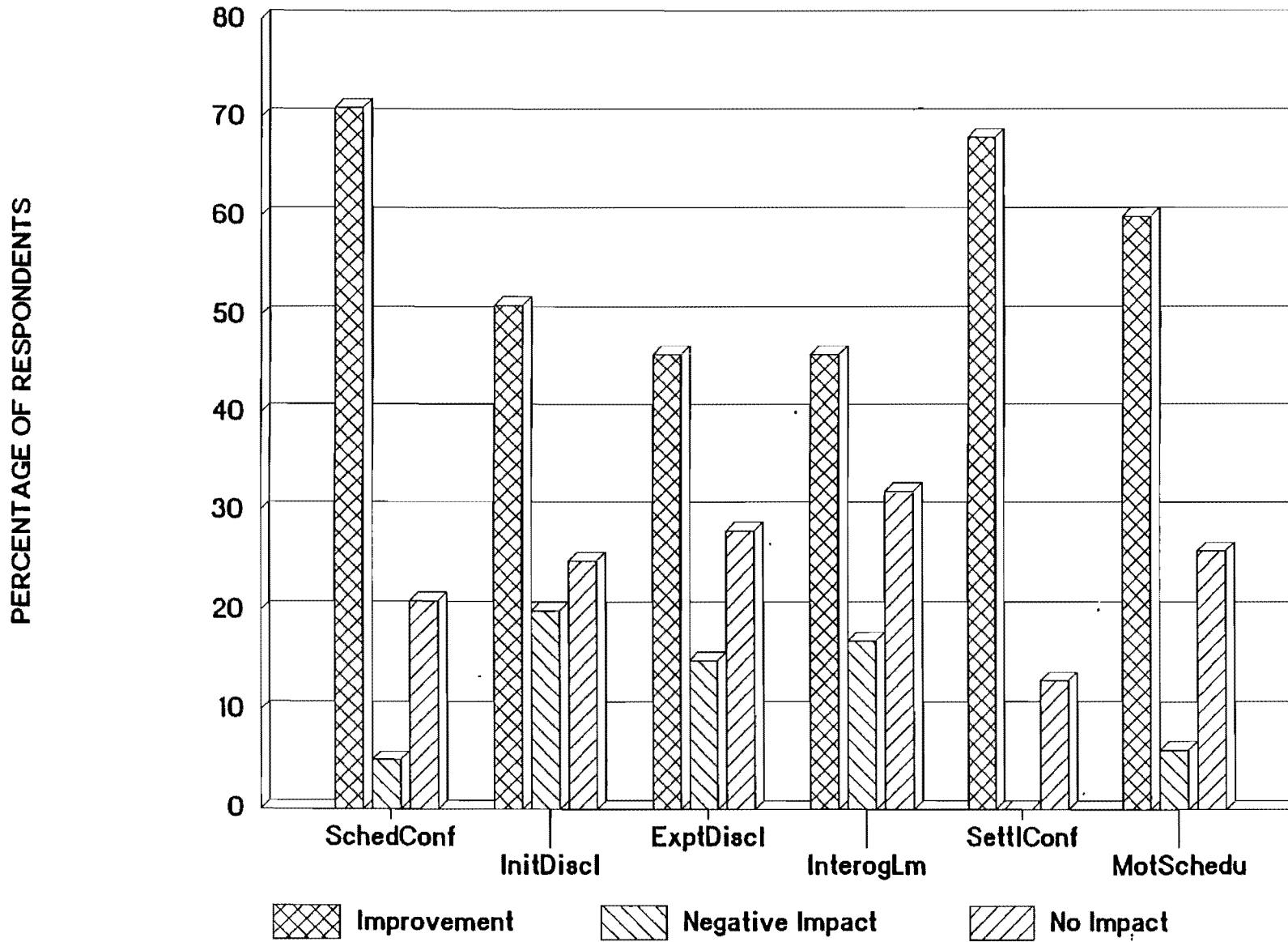
BAR ASSESSMENT OF CJRA-1993

IMPACT OF REFORMS ON REDUCING COST



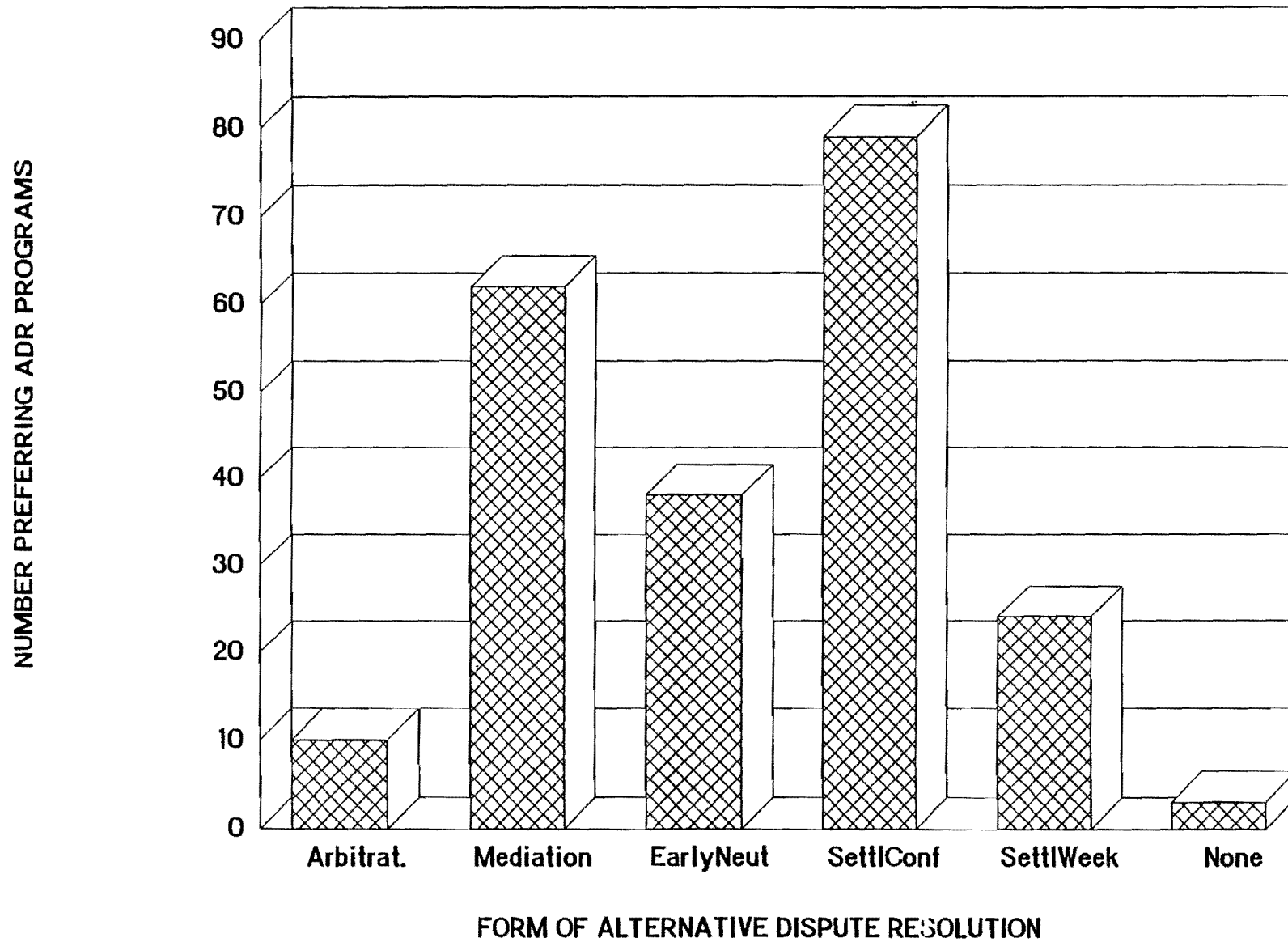
BAR ASSESSMENT OF CJRA REFORMS

128 of 933 Returned (14%)



BAR PREFERENCES FOR ADR PROGRAMS

CJRA EVALUATIONS--1993



CRIMINAL TRIAL ACTIVITY

CRIMINAL FILINGS AND TRIAL ACTIVITY							
	1987	1988	1989	1990	1991	1992	1993
Filings	177	128	94	96	96	101	106
Trials	13	22	28	34	44	32	23
Hours in Trial	115	353	352	487	374	775	728
Days in Trial	25	75	67	100	93	137	127

The Sentencing Guidelines took effect on November 1, 1987.

Between December 31, 1987 and December 31, 1993:

Although criminal case filings **decreased 40%**

Number of criminal trials has **increased 77%**

Number of judge hours in criminal trials has **increased 533%**

Number of days in criminal trials has **increased 408%**

PRO SE LITIGATION

Of the 525 civil cases filed during 1993,
164 or **31%** involved pro se litigants.

Of those 164 pro se cases filed in 1993,
106 cases or **65%** involved **prisoners** while
58 cases or **35%** involved **non-prisoners**

Prisoner Petitions **increased** by **96%**
between 1992 and 1993

Pro Se cases currently comprise **24%** of our total
pending civil cases. (153 out of 635)

Of those **153** pending pro se cases,
106 or **69%** involve **prisoners** while
47 or **31%** involve **non-prisoners**

Case Management

The Civil Justice Reform Act required the District of Idaho to examine the causes of cost and delay. The District of Idaho CJRA Plan reflects our commitment to managing District and Bankruptcy Court cases in an efficient manner. This Strategic Plan incorporates, by reference, all the recommendations of the CJRA Plan. In addition, it is the goal of the Court to identify methods that will allow the Court to manage its growing criminal caseload without limiting the judicial resources available to civil proceedings. One way to accomplish this is through the formation of a Criminal Justice Committee to review the effectiveness of criminal case management procedures. We hope that this committee's recommendations will improve the delivery of court services.

As court resources are diminished, traditional adversarial proceedings may not be the most economical and judicious method to resolve disputes. We suggest that the public be afforded the opportunity to use expanded alternative dispute resolution programs. These programs provide a convenient, oftentimes less costly, method of resolving disputes.

The Court will continue to rely on magistrate judges and visiting judges to meet the demands for service. These professionals can provide expert assistance in a system that is challenged by insufficient resources, restrictive rules and geographic considerations.

It is also important that the relationships between the Court and the appellate court be strengthened with the goal of more efficient case management.

The Court's case management goals include the following:

Case Management

1. GOAL: Handle Work load with Existing Resources in the Most Timely and Least Costly Manner.

- a. **Objective:** Identify methods of making criminal case management more efficient.

Implementation Strategies:

- (1) Form a committee (consisting of Criminal Justice Act panel members, U.S. Attorney, Clerk, U.S. Marshal, and Probation) to review effectiveness of criminal case management procedures and develop report recommending remedial measures.
- (2) Maximize use of the Court's criminal automation process such as the generation and dissemination of speedy trial report and criminal pending motions report to U.S. Attorney and defense counsel.
- (3) Develop case flow management training for judges and courtroom deputies.
- (4) Review other districts' experiences with criminal settlement hearings.

- b. **Objective:** Implement and periodically evaluate Civil Justice Reform Act recommendations.

Implementation Strategies:

- (1) Ensure that all District and Bankruptcy Court cases have next action dates and that these dates are monitored on the automated case management system.
- (2) Dispose of 95% of all civil cases within 18 months of filing of the case. Report progress on this goal on a monthly basis.
- (3) Limit trial and motion continuances in all cases.
 - (a) Evaluate the requirement that clients approve trial continuances and the impact upon reducing the number of such requests.

Case Management

- (b) Review and evaluate District and Bankruptcy Court practices relative to the granting of continuances for time extensions or requests to continue or vacate hearings.
- (4) Continue the Court commitment that cases be processed expeditiously. Review process of early and ongoing judicial involvement and its impact upon case disposition.
- (5) Continue use of scheduling conferences/litigation plan and evaluate its effectiveness.
- (6) Establish goal to dispose of all motions within 60 days of receipt of all briefs or within 60 days of hearing of the motion. Evaluate whether monitoring and enforcement of briefing deadlines has impacted case disposition time.
 - (a) Evaluate motion disposition procedures and motion scheduling practices.
- (7) Continue active use of judicially conducted settlement conferences and maintain data on the rate of success achieved by the conferences.
- (8) Establish a District and Bankruptcy Court calendar system which adheres to firm trial dates.
 - (a) Provide mechanism for ensuring that calendar settings are credible and rarely moved by motion of the court.
 - (b) Set firm trial dates.
 - (c) Ensure that attorneys will be ready when the case is set.
- (9) Review remedial measures which were implemented to prevent discovery abuse and assess the impact on delay and the cost of litigation.
- (10) Develop and implement a written comprehensive case flow management system in Bankruptcy Court.

Case Management

- (11) Ensure that involuntary dismissal notices are automatically generated in those cases in which no proceedings have taken place in 180 days.
 - (12) Target older cases through reporting process and set cases for settlement conferences. Require counsel to give the status of the case on a regular basis. Ask what has to occur before a case will settle.
 - (13) Adopt District and Bankruptcy Court goals for maximum size of caseload (number of cases pending and length of time pending) which is acceptable to the court.
 - (14) Identify potentially protracted or complicated cases early for special attention by the court. Also identify simple cases early for quick disposition.
 - (15) Establish a district and bankruptcy court goal, at a minimum, to dispose of as many cases as are filed each year.
 - (16) Conduct regular meetings with judges in regard to progress of case flow management goals.
- c. **Objective:** Provide more information to the bar and court staff in regard to case management.

Implementation Strategies:

- (1) Ensure that all procedural and general orders of court are readily accessible by bar, public and staff. Place these on the bulletin board (FEDNET) and on internal local area network.
- (2) Enhance communication and training on CJRA goals and objectives. Ensure that key information is contained in a booklet which is readily available to the staff and bar. Circulate the CJRA plan to new staff members.
- (3) Ensure that law clerk orientation occurs on regular basis and includes case flow goals and objectives.

Case Management

- (4) Establish a new judge orientation program to explain the Court's case management philosophy.

d. **Objective:** Provide regular automated reports which assist the bar and District and Bankruptcy Court in its case management efforts.

Implementation Strategies:

- (1) Develop and use monthly reports on the following: age of pending cases in comparison to time standards; percentage of trials starting on first scheduled trial date; number of continuances of scheduled events in each case; reasons for continuances; persons making the continuance request; number of pending cases by type of case.
- (2) Provide regular prisoner reports to laws clerks and death penalty clerks in regard to nature of suit and length of time pending.
- (3) Provide more emphasis on education and training between justice system agencies on mechanisms of accountability--i.e. understanding court reports.
- (4) Increase training on case flow management for judges, staff and bar.
- (5) Implement procedures and training to effectively manage pending motion reports and reports on cases over three years old.

e. **Objective:** Establish and monitor case processing goals for the Bankruptcy Court.

Implementation Strategies:

- (1) Monitor the progress of the following case processing goals:
 - (a) In Chapter 7 cases, ensure that the median disposition time is no more than five months.
 - (b) In Chapter 11 cases, ensure that no more than 33% of the cases reach more than four years old and no more than 10% of cases reach more than four years old.

Case Management

- (c) In Chapter 13, cases, ensure that no more than 1% of cases reach six years old.
- (d) In adversary cases, ensure that no more than 33% of cases reach more than two years old and that no more than 10% of cases reach more than four years old.
- f. **Objective:** Encourage use of Alternative Dispute Resolution (ADR) where appropriate in the District and Bankruptcy Court, and periodically evaluate these programs.

Implementation Strategies:

- (1) Expand ADR training for court staff, judges, court authorized arbitrators, neutral evaluators, settlement masters and mediators.
- (2) Educate public and bar about the proper use of ADR.
- g. **Objective:** Provide an equitable allocation of judicial resources between civil, criminal and bankruptcy cases.

Implementation Strategies:

- (1) Revise and modify assignment practices where appropriate and evaluate the effectiveness of these programs.
- (2) Increase the use of magistrate judges in civil cases.
- (3) Use visiting and retired judges to the fullest extent possible.
- h. **Objective:** Maintain positive relations with Court of Appeals and other districts in regard to civil, criminal and bankruptcy cases.

Implementation Strategies:

- (1) Work with the Ninth Circuit Court of Appeals and the Bankruptcy Appellate Panel in regard to timely submissions of records, transcript designations and accurate pending appeals statistics.
- (2) Monitor appeals and notify litigants in regard to the status.

Case Management

(3) Notify state court of pending bankruptcy proceedings.

- i. **Objective:** Provide adequate training for court interpreters and court reporters.

Implementation Strategies:

- (1) Encourage court interpreters in the district to take and pass the certification examination.
- (2) Provide training for language skilled interpreters.
- (3) Implement the provisions of the court reporter Management Plan.
- (4) Maintain lists of interpreters and contacts for the hearing impaired.

CJRA PROJECTS		
Description	Status	Deadline
1. CJRA Evaluation Report	In Progress	April 1, 1994
2. Manual reflecting differences between federal & state local rules	Training Initiated Manual not started	July 1, 1994
3. Federal Court CLE Programs conducted in different locations throughout the State	10 performed during past year	
4. Meetings between judges, law clerks and clerk's office to discuss differences in practices and procedures	Recent Caseflow Management Workshop conducted by outside expert	
5. Monitoring of Next Action Dates on Automated Case Management System	Currently being done	
6. Scheduling Conference Litigation Plan	Currently being done	
7. Notification of Service Deadlines and Involuntary Dismissal	Currently being done	
8. Involuntary Dismissal for Failure to Prosecute or Inactivity by counsel for 180 days	Currently being done	
9. Case Disposition Goal Processing Report	Currently being done	
10. Client Approval for Trial Continuances	Currently being done	
11. Trial Continuance Report	Methodology currently being studied	
12. Motion Disposition Monitoring & Reports	Currently being done	
13. Brochure on ADR Programs	Not Done Awaiting Implementation of Mediation Program	July 1, 1994
14. Comprehensive Pro Se Handbook	1st Draft completed	July 1, 1994
15. Settlement Weeks for Pending Prisoner Pro Se Cases	Still in Planning Stages	July 1, 1994
16. Videotape for non-prisoner pro se litigants	Not Done Cost Prohibitive	None